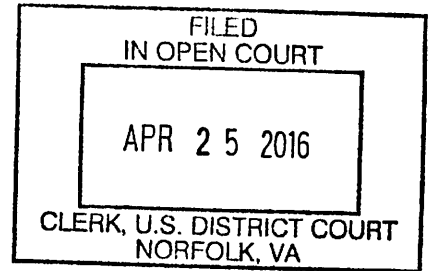


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



UNITED STATES OF AMERICA )  
 )  
 v. ) CRIMINAL NO. 2:16cr27  
 )  
 CHRISTOPHER RANDALL SMITH, )  
 )  
 Defendant. )

## STATEMENT OF FACTS

If this case were to proceed to trial, the evidence presented by the United States would establish the following beyond a reasonable doubt:

1. From in or about January 2013 through October 15, 2015, the defendant, CHRISTOPHER RANDALL SMITH, entered into a conspiracy with others, the object of which was to unlawfully obtain, reproduce, and distribute copies of copyrighted works, including movies and TV shows, without permission from the owners of these copyrighted works.

2. On or about January 10, 2013, “Randy SMITH” imported from China into the United States a parcel containing 49 infringing copies of DVD sets of the copyrighted Indiana Jones movie series, and 49 infringing copies of DVD sets of the copyrighted Harry Potter movie series. On or about January 10, 2013, U.S. Customs and Border Protection (CBP) seized the parcel, which was addressed to Randy SMITH at an address in Boykins, VA. CBP determined that the DVDs were found to contain counterfeit “DVD” word marks, which mark is registered on the principal register of the U.S. Patent and Trademark Office under registration number 2295726. In a January 11, 2013 letter, CBP notified CHRISTOPHER RANDALL SMITH of

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the seizure and that the seized DVDs bore counterfeit “DVD” marks. CBP identified the shipper as an entity in Hong Kong, China.

3. On or about January 10, 2013, “Randy SMITH” imported from China into the United States a parcel containing 95 DVD sets of the copyrighted Indiana Jones movie series. On or about January 10, 2013, CBP seized the parcel, which was addressed to Randy SMITH at an address in Boykins, VA. CBP found that the DVDs bore both a counterfeit “DVD” word mark and a counterfeit “Paramount” word mark. The “Paramount” word mark is registered on the principal register of the U.S. Patent and Trademark Office under registration number 27368787. In a January 14, 2013 letter, CBP notified CHRISTOPHER RANDALL SMITH of the seizure and that the seized DVDs bore the aforementioned two counterfeit marks. CBP identified the shipper as an entity in Hong Kong, China.

4. On or about September 16, 2014, CHRISTOPHER RANDALL SMITH finalized an order for DVDs with a China-based supplier identified as “Jackie.” “Jackie” documented the order on invoice number 114 for a total amount of \$2,124 and emailed the invoice to CHRISTOPHER RANDALL SMITH.

5. “Jackie” the China-based supplier included six separate DHL airway bills on invoice 114 (including airway bill numbers 2338457645, 2338458124, and 2338455604) so CHRISTOPHER RANDALL SMITH could track the importation of the goods into the United States.

6. On or about September 17, 2014, CHRISTOPHER RANDALL SMITH made a payment via his PayPal Debit MasterCard to the merchant “ali\*aliexpress.com” in the amount of \$2,124.

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7. On or about September 17, 2014 through September 22, 2014, DHL airway bill numbers 2338457645, 2338458124, and 2338455604 were shipped from Hong Kong, China, to be delivered to CHRISTOPHER RANDALL SMITH in Boykins, Virginia within the Eastern District of Virginia. Beginning on or about September 24, 2014 through September 28, 2014, the aforementioned shipments were seized by CBP at the DHL facility located in Cincinnati, Ohio. The contents of the shipments were listed by the shipper as "Photo Album no battery," "PV Plastic Case," and "Photo Album." Upon inspection, CBP found that the parcels contained DVD movies accompanied by counterfeit labels bearing various counterfeit trademarks including those of "Digital Dolby," "Disney," and "NBC."

8. On or about September 29, 2014, CHRISTOPHER RANDALL SMITH and "Jackie" exchanged emails regarding the seized shipments and a letter CHRISTOPHER RANDALL SMITH received from CBP notifying CHRISTOPHER RANDALL SMITH of the seizure. In one such email exchange, CHRISTOPHER RANDALL SMITH remarked to Jackie, "Yes, I can appeal it in court, but like you said, it is fake and if I pursue and lose, I could be held for federal crimes for wasting the courts time. It is copyright infringement and holds a high penalty. I'd rather not fight for them. You said you ship them again, right? And not all get checked by customs, it was just 3 bad luck packages that may of [sic] been checked because of the money fraud coming from Hong Kong customs?"

9. On or about October 13, 2014, "Jackie" sent an email to CHRISTOPHER RANDALL SMITH identifying new DHL airway bill numbers (1442913463, 4669407050, and 1442953326) for invoice number 114 to replace the DVDs that were seized by CBP.

10. On or about October 12, 2014 through October 14, 2014, DHL airway bill numbers 1442913463, 4669407050, and 1442953326 were shipped from Hong Kong to CHRISTOPHER RANDALL SMITH in Boykins, Virginia, within the Eastern District of Virginia. The contents of the shipments were listed by the shipper as "Photo Frame(s)."

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11. On or about January 29, 2015, CHRISTOPHER RANDALL SMITH sold infringing DVD copies of the copyright protected movies "Frozen," "Despicable Me," and "Winnie the Pooh" via the Internet and the website eBay.com to an address in Norfolk, Virginia. CHRISTOPHER RANDALL SMITH received via PayPal \$19.79 as payment for the sale. On or about February 6, 2015, investigators from the Motion Picture Association of America (MPAA) analyzed these copies of DVD movies purchased from CHRISTOPHER RANDALL SMITH and determined that each of the three DVD movies were unauthorized copies of the copyright protected movies by the same titles.

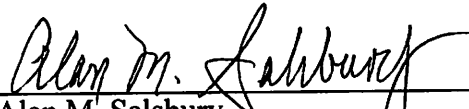
12. On or about March 4, 2015, CHRISTOPHER RANDALL SMITH sold infringing DVD copies of the copyright protected movies "Cloudy with a Chance of Meatballs," "The Nut Job," and "Rio" via the Internet and the website eBay.com to an address in Richmond, Virginia. CHRISTOPHER RANDALL SMITH received via PayPal \$28.28 as payment for the sale. On or about March 13, 2015, the MPAA analyzed these copies of DVD movies purchased from CHRISTOPHER RANDALL SMITH and determined that each of the three DVD movies were unauthorized copies of the copyright protected movies by the same titles.

13. On or about July 30, 2015, CHRISTOPHER RANDALL SMITH sold infringing DVD copies of the copyright protected movies "Game of Thrones: The Complete Fourth Season," "Indiana Jones – The Complete Adventure Collection," "Boardwalk Empire: The Complete Fifth Season," and "Glee: The Complete Fifth Season" via the Internet and the website eBay.com to an address in Hampton, Virginia. CHRISTOPHER RANDALL SMITH received via PayPal \$81.96 as payment for the sale. On or about August 11, 2015, the MPAA analyzed these copies of DVD movies purchased from CHRISTOPHER RANDALL SMITH and determined that each of the three DVD movies were unauthorized copies of the copyright protected movies by the same titles.

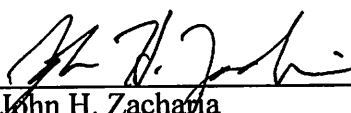
14. On October 15, 2015, HSI agents executed a search warrant on CHRISTOPHER RANDALL SMITH'S residence, and seized computers, DVDs, and other evidence pursuant to

the warrant. Among the seized items, investigators seized items that CHRISTOPHER RANDALL SMITH admits constitute and contain infringing contraband, are property used to commit and to facilitate the commission of the offense described in the criminal information against him, and property constituting and derived from the proceeds of such offense.


Dana J. Boente  
United States Attorney

By:   
Alan M. Salsbury  
Assistant United States Attorney  
Attorney for the United States

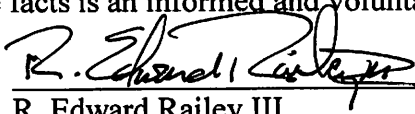
Leslie R. Caldwell  
Assistant Attorney General

By:   
John H. Zacharia  
Assistant Deputy Chief for Litigation  
Computer Crime and Intellectual Property Section  
Attorney for the United States  
United States Department of Justice

I hereby stipulate that the above Statement of Facts is true and accurate, and that if this case had proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

  
Christopher Randall Smith

I have reviewed the above Statement of Facts with Christopher Randall Smith and his decision to stipulate to the accuracy of these facts is an informed and voluntary one.

  
R. Edward Railey III  
Counsel for the defendant

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